

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 17206B (Application 24789B)
Beckstoffer Vineyards XI

**ORDER APPROVING EXTENSION OF TIME
AND AMENDING THE PERMIT**

SOURCE: Russian River
COUNTY: Mendocino

WHEREAS:

1. The State Water Resources Control Board (State Water Board or SWRCB) issued Permit 17206B to Ukiah Vineyard Associates on August 18, 1983, pursuant to Application 24789B. The State Water Board subsequently assigned Permit 17206B to Beckstoffer Vineyards XI.
2. The permittee filed a petition with the State Water Board on November 27, 2000 for an extension of time within which to develop the project and apply the water to the proposed use.
3. The permittee has proceeded with diligence and shown good cause for an extension of time. The State Water Board issued a public notice of the request for an extension of time on March 16, 2001, and no protests were received.
4. The State Water Board has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The permit conditions relating to the continuing authority and water quality objectives of the State Water Board should be updated to conform to Section 780 (a & b), Title 23 of the California Code of Regulations.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 17206B IS AMENDED TO READ AS FOLLOWS:

1. Condition 7 of the permit shall be deleted and condition 8 shall be amended to read:

Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2011.

(0000009)

2. The continuing authority condition, shall be updated to read:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

3. The water quality objectives condition, shall be updated to read:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

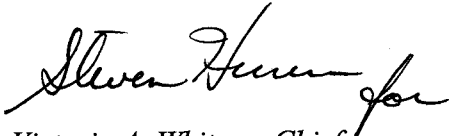
4. Permit 17206B is amended to include the following Endangered Species condition:

This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

5. All other conditions of Permit 17206B are still applicable.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: JUN 07 2005

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17206B

Application 24789B of Ukiah Vineyard Associates, A Partnership (over)
4701 El Roble Road, Ukiah, California 95482

filed on March 27, 1975, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Russian River

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
North 39° 03' East 2,686 feet from SW corner of Projected Section 10	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	10	14N	12W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
Frost Protection	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	9	14N	12W	MD	8
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	9	14N	12W	MD	6
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	10	14N	12W	MD	31
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	10	14N	12W	MD	4
	S $\frac{1}{2}$ of NW $\frac{1}{4}$	10	14N	12W	MD	3
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	10	14N	12W	MD	21
	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	10	14N	12W	MD	15
					Total	88

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4.66 cubic feet per second by direct diversion from March 15 to May 15 and September 15 to November 1 of each year. The maximum amount diverted under this permit shall not exceed 23 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall be completed by December 1, 1984. (0000008)
8. Complete application of the water to the authorized use shall be made by December 1, 1994. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)
12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
13. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)
14. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue. (0000025)

15. In accordance with Section 1603, and/or Section 6100 of the Fish and Game Code, no water shall be diverted until the Department of Fish and Game has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. The construction, operation, or maintenance costs of any required pursuant to this provision shall be borne by the permittee.

(0000063)

16. For the protection and preservation of fishlife and the maintenance of water-related recreational uses, permittee shall divert only when the flow in the Russian River exceeds 150 cubic feet per second and only at a rate not exceeding said excess, ceasing all diversion when the flow in the river is 150 cubic feet per second or less. River flows shall be measured at the nearest U.S.G.S. Gaging Station on the river.

(0140068)

17. Availability of water for appropriation under this permit during the critical period of July 1 through October 31 is dependent upon water remaining available under the 10,000 acre-foot per annum allocation of water from Coyote Valley Reservoir (Lake Mendocino) for use in the Russian River Valley in Sonoma County. If subsequent studies show that the above-mentioned allocation has been fully used before use is completed under this permit, a license shall be issued only for the amount of water, if any, which has been put to use under this permit and which is included in the allocation.

(0000081)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **AUGUST 18 1983**

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights